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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/731,632 | 11/20/2000 | Wanda A. Cromlish | 43639.010400 | 3503 |
| 7590 12/07/2005 | | | EXAMINER | |
| Eugene C Rzucidlo Esq Greenberg Trauriq LLP 885 Third Avenue 21st Floor New York, NY 10022 | | | RAO, MANJUNATH N | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1652 | |

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|---|-------------------------------------|---------------------------------|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 09/731,632 | Applicant(s) CROMLISH ET AL. | |
| | Examiner Manjunath N. Rao, Ph.D. | Art Unit 1652 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1-7, 11-15, 19 and 22-27.
Claim(s) objected to: _____.
Claim(s) rejected: 9 and 10.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Manjunath N. Rao, Ph.D.
Primary Examiner
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Advisory Action

Claims 1-7, 9-15, 19, 22-27 are now currently pending in this application.

Applicant's request for reconsideration filed on 11-8-05 has been considered but NOT ENTERED, as it raises new issues and requires the Examiner to institute new rejections. The amendment has not been entered for the following reasons;

In response to the Final rejection mailed on 7-15-05, in which claims 9-10 were rejected and claims 1-7, 11-15, 19, 22-27 were indicated as allowable, Applicants filed an amendment canceling claims 9-10 and requesting allowance of claims 1-7, 11-15, 19, 22-27. However, the amendment was found defective specifically for not following Rules under 1.173(b)(3). On October 28, 2005, Applicant was advised through an Advisory Action as well as through the telephone to re-submit properly made claim and figure amendments for further consideration.

In response to the above the Advisory Action mailed on October 28, 2005, applicant has filed the instant response. However, in the instant response applicant has amended claims in such a fashion that it raises new issues and requires the Examiner to make new rejections. First, applicant has deleted the word "adding" in claims 1, 3, 6, 7, and 11 because of which the claim makes no scientific sense. Second applicant has reinstated claims 9 and 10 that were rejected in the final rejection and indicated as cancelled in the previous amendment. If claims 9-10 remain on record, it requires the Examiner to reinstate the rejection. Therefore, the instant amendment has not been entered.

Furthermore, Examiner suggests again that claims 19 and 22 should be amended to recite the phrase "An isolated". Examiner also suggests deletion of the term "human" in claims 22-25.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 571-272-0939. The Examiner can normally be reached on 7.00 a.m. to 3.30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.



Manjunath N. Rao, Ph.D.
Primary Examiner
Art Unit 1652

December 5, 2005